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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,947	03/15/2004	Martin Bentham	2197.033USU	4464

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EXAMINER

SUTTON, ANDREW W

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/800,947	Applicant(s) BENTHAM ET AL.	
	Examiner Andrew W. Sutton	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16, 17 and 19 is/are rejected.
- 7) ☒ Claim(s) 14 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 3/15/04 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The applicant claims the device has thermal properties sufficient to resist and or mitigate formation of condensation when steam is applied. The applicant fails to teach what the thermal properties that are required, thus failing to enable one to reproduce the device

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 recites the limitation "polymeric metal" in line 2. There is insufficient antecedent basis for this limitation in the claim. Secondly, a polymeric metal is not defined in the specification and it is unclear as to what the applicant is try to describe as metal are generally crystalline and plastics polymeric.

Claims 11 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant claims the device has thermal properties sufficient to resist and or mitigate formation of condensation when steam is applied. The applicant fails to state what the thermal properties are thus deeming the claim indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cavdek (US 6,196,429). Cavdek illustrates in Fig. 4 a mannequin a first section 60 being made of plastic (Col. 2 line 31) which is resistant to damage such as cutting as claimed. Cavdek illustrates in Fig. 1 a second section 50 (not labeled in Fig. 1) which is removably attached from to the first section 60 via the tabs 49 as shown in Fig. 4. The two combined sections as shown in Fig. 1 show a predetermined three dimensional shape where first and second sections abut making a smooth mating line.

As to claim 2, Cavdek illustrates in Fig. 4 a first section 40 that has a cavity that is capable of receiving another first section during storage.

As to claim 3, the claim recites no structural limitation and only defines the third section being formed integrally into the first section. The device of Cavdek is capable of being divided into two sections as claimed.

As to claim 4, Cavdek illustrates in Fig. 1 a third section 42 that is releasably secured to the first section 60 via a hinge 39 as shown in Fig. 4 and creates a smooth mating line.

As to claim 5, Cavdek illustrates in Fig. 4 fourth section 44 that is releasably secured to the first section 60 via a hinge 39 as shown in Fig. 4 and creates a smooth mating line.

As to claim 6, Cavdek illustrates in Fig. 4 a first section 40 that has a cavity that is capable of receiving another first section during storage.

As to claim 7, Cavdek illustrate in Fig. 4 the fourth section 44 is secured between the first 60 and second 50 sections.

As to claim 10, Cavdek illustrate in Fig. 1, the three dimensional shape is a torso.

As to claim 11, Cavdek illustrates in Fig. 4 a mannequin a first section 60 being made of plastic (Col. 2 line 31) which would resist the formation of condensation when steam is applied.

Claims 1, 8, 12, 13, and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Osmond (US 3,168,227). Osmond illustrates in Fig. 1 a first magnetic section 18 and a second magnetic section 20. While Osmond does not explicitly state that the magnetic sections are made of metal, it is inherent since they are magnetic. The metal would be resistant to cutting as it is made of metal. The three-dimensional shape that the pieces 18 and 20 make are an upper torso and arms.

As to claim 12, Osmond illustrates in Fig. 1 a first metallic section 18 and a second metallic section 20 and a fourth section 20 (one for each arm 26) wherein the first, second and fourth sections are magnetically securable to one another to define a smooth outer shape.

As to claim 13, Osmond illustrates in Fig. 1 the mannequin having the shape of an upper torso and arms.

As to claim 15, the applicants language of a third section integrally formed with the first section provides no structural limitations, as anything is capable of being divided into sections. Therefore the device of Osmond and the 1 metallic section 18 are capable and being divided into a third section as claimed and being integral.

As to claim 16, Osmond illustrates in figure 1 a third section 50 being magnetically secured to the first section 44 as claimed.

Claims 12, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Teagarden (US 3,246,422). Teagarden illustrates in Fig. 2 a first metallic section 10 and second/fourth metallic sections 48. The sections are metallic as they include magnets, 46 and 34, which are made of metal. The sections are magnetically securable to each other and define a smooth outer shape.

As to claim 16 and 17, Teagarden illustrates in Fig. 2 a third metallic section 52 including a magnet 50, which is metal that includes the gluteus region.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Osmond (US 3,168,227). Osmond discloses the device substantially above. However Osmond does not explicitly state the type of metal used in the magnets. The applicant states no unexpected results or criticality for the specific metals claimed. It would have been obvious to one of ordinary skill in the art to use one of the metals claimed as the metals are commonly used in magnets.

Allowable Subject Matter

Claims 14 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Applicant teaches the storage of a first and fourth section in the cavity of another first and fourth section respectively that is not shown in the prior art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Varner (US 6,705,794) and Goldsmith (US 2,824,677) teach the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew W. Sutton whose telephone number is (571) 272-6093. The examiner can normally be reached on Monday - Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AWS
6/24/06



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